

# **Draft Environmental Assessment**

## **Paradise Proposed Fishing Access Site Acquisition**



October 25, 2007



***Montana Fish, Wildlife and Parks***  
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(406) 444-2452

**DRAFT ENVIRONMENTAL ASSESSMENT**  
**PARADISE PROPOSED FISHING ACCESS SITE ACQUISITION**

**PART 1. PROPOSED ACTION DESCRIPTION**

**1. Type of proposed action:**

Fish, Wildlife & Parks proposes to acquire a tract on the Clark Fork River to include in the fishing access program.

Development	_____
Renovation	_____
Maintenance	_____
Land Acquisition	<u>  X  </u>
Equipment Acquisition	_____
Other (Describe)	_____

**2. Agency authority for the proposed action:**

The 1977 Montana Legislature enacted Statute 87-1-605 MCA, which directs Montana Fish, Wildlife & Parks (MFWP) to acquire, develop, and operate a system of fishing accesses. The legislature established a funding account to ensure that this function would be accomplished. Sections 12-8-213, 23-1-105, 23-1-106, 15-1-122, 61-3-321, and 87-1-303, MCA, authorize the collection fees and charges for the use of state park system units and fishing access sites, and contain rule-making authority for their use, occupancy, and protection.

Section 23-1-110, MCA, or House Bill 495, and the guidelines established in 12.8.604 (ARM) (1) relate to changes in state park and fishing access site features or use patterns. The proposed acquisition will not change site features or historical use; therefore, Section 23-1-110, MCA, is not initiated by the proposed fishing access site acquisition.

**3. Project title: Proposed Paradise Fishing Access Acquisition:**

Application date: October 18, 2007

**4. Name, Address and Phone Number of Project Sponsor :**

Jim Vashro  
Montana Fish, Wildlife & Parks  
490 N Meridian Rd, Kalispell MT 59901  
(406) 752-5501

**5. Project location:**

Sanders County, Montana, T19N, R25W, S28, SW¼, SW¼, S21

**6. Description of project:**

This project is to acquire a fishing access site on the Clark Fork River in Sanders County near Paradise, Montana. 4.29 acres would be purchased in fee title for \$170,000. A permanent no-cost recreational access lease would also be acquired on 8.31 acres of islands and river channels immediately upstream.

**7. Project size: Estimate the number of acres that would be directly affected that are currently:**

	<u>Acres</u>		<u>Acres</u>
(a) Developed:		(d) Floodplain	<u>8.31</u>
Residential	<u>    0</u>		
Industrial	<u>    0</u>	(e) Productive:	
		Irrigated cropland	<u>    0</u>
(b) Open Space/Woodlands/Recreation	<u>12.6</u>	Dry cropland	<u>    0</u>
		Forestry	<u>    0</u>
(c) Wetlands/Riparian Areas	<u>    0</u>	Rangeland	<u>    0</u>
		Other	

**8. Other groups or agencies contacted or which may have overlapping jurisdiction:**

Montana Department of Transportation (Approach Permit)

**9. Narrative summary of the proposed action including benefits and purpose of the proposed action:**

**Purpose**

The purpose of the proposed acquisition is to maintain and improve public access along the Clark Fork River. The lower Clark Fork River is a very popular river for float and bank angling, as well as a variety of recreational uses including floating, swimming, walking, picnicking, and wildlife viewing. According to an FWP survey conducted in 2005, the section of river from the mouth of the Flathead River to the Idaho border received 25,141 days of fishing, and the upstream section from the mouth of the Bitterroot River to the mouth of the Flathead River received 71,869 days of fishing. A recreational corridor on the Clark Fork River is in the process of being developed from Missoula to Thompson Falls. Many of the sites on the Clark Fork River are already in place, with 16 FWP fishing access sites as well as sites owned and operated by other entities, but gaps between sites need to be addressed. One of the gaps exists near Paradise (Clark Fork river mile 101.2) between the U.S. Forest Service Cascade Campground access site and the town of Plains access site. The Paradise site would provide access for floaters from both the Clark Fork and Flathead Rivers (the confluence of the Flathead River is about 1.6 miles upstream of the proposed site). The approximately 5.6 miles of the Clark Fork River just upstream of the confluence of the Flathead River is excellent trout fishing and currently likely under-utilized due to the lack of public access in this reach. The proposed site would also serve as a take-out location

from the new Robertson Creek site on the lower Flathead River that is about 3.8 miles upstream of the confluence of the Flathead River. The site would also be a good access for a float down to Plains (Clark Fork river mile 94.1) and beyond.

### **Site Description**

The proposed FAS consists of 4.29 acres of upland grasslands. The parcel includes a primitive road down to the river that was built to obtain water during highway construction that could be developed for river access. The proposed 8.31 lease acreage consists of several river channels and islands. The lease area contains some ponderosa pine and mature cottonwoods, as well as willows and shrubs, and shows heavy use by geese and other waterfowl, shorebirds and songbirds, furbearers, and white-tailed deer. The parcel is bounded by railroad right of way on the north, Highway 200 on the west and the Clark Fork River on the south. MDT has recommended the existing private approach from Highway 200 be replaced with a public approach slightly to the south at Station 10+50, proceeding southerly along the highway right of way to Station 10+50 to enter the proposed parcel. The approach has good site distances and is at the juncture of 35 and 45 mile per hour speed zones so vehicle speeds are reduced.

### **Recreational Use**

The St. Regis cut-across section of river contains populations of rainbow, westslope cutthroat, rainbow X cutthroat hybrids and brown trout and is a very popular fishing section. The lower end of the Flathead River contains smallmouth and largemouth bass, northern pike, and a few trout. For some reason, the fishery downstream of the mouth of the Flathead River is poor, with trout populations too low to estimate. Pike and bass may be present seasonally. The primary use in this area would be floating and wildlife viewing.

### **Sensitive Species**

The lower Clark Fork River contains a few bull trout that may migrate through this area. Due to high summer water temperatures, there are no resident bull trout in this area. Bald eagles may move through the area and use it for feeding. Due to the proximity of the railroad and the town of Paradise, eagle use is transitory.

### **Benefit of the Action**

If FWP acquires the site, it could be managed as part of a river access corridor stretching 150 miles from Missoula to Thompson Falls. This site would provide access to better fish the sections of Clark Fork and Flathead Rivers just upstream, which currently are under-fished. This would provide a better distribution of recreational use. This site would provide river access for nearby residents, and increased recreational use could provide economic benefits to a raft rental business and other businesses in Paradise.

### **Future Development of the Site**

This EA addresses only the acquisition of the proposed FAS and does not evaluate any development on the property. A separate EA would be prepared and made available for public comment in advance of any site development plans. If acquired, the site would be managed as part of the FAS Program. Pending engineering studies and successful public review, it is anticipated the site would receive simple improvements to provide safe access from Highway 200, an access road and parking, and a river access to load and unload canoes, kayaks, rafts, and drift boats. Most of the site would remain undeveloped for shore fishing, wildlife viewing, picnicking, and swimming. The site would be managed along with several other FWP sites in the area for weed control and litter.

Figure 1. Map of proposed Paradise fishing access site showing other existing fishing access sites in vicinity.

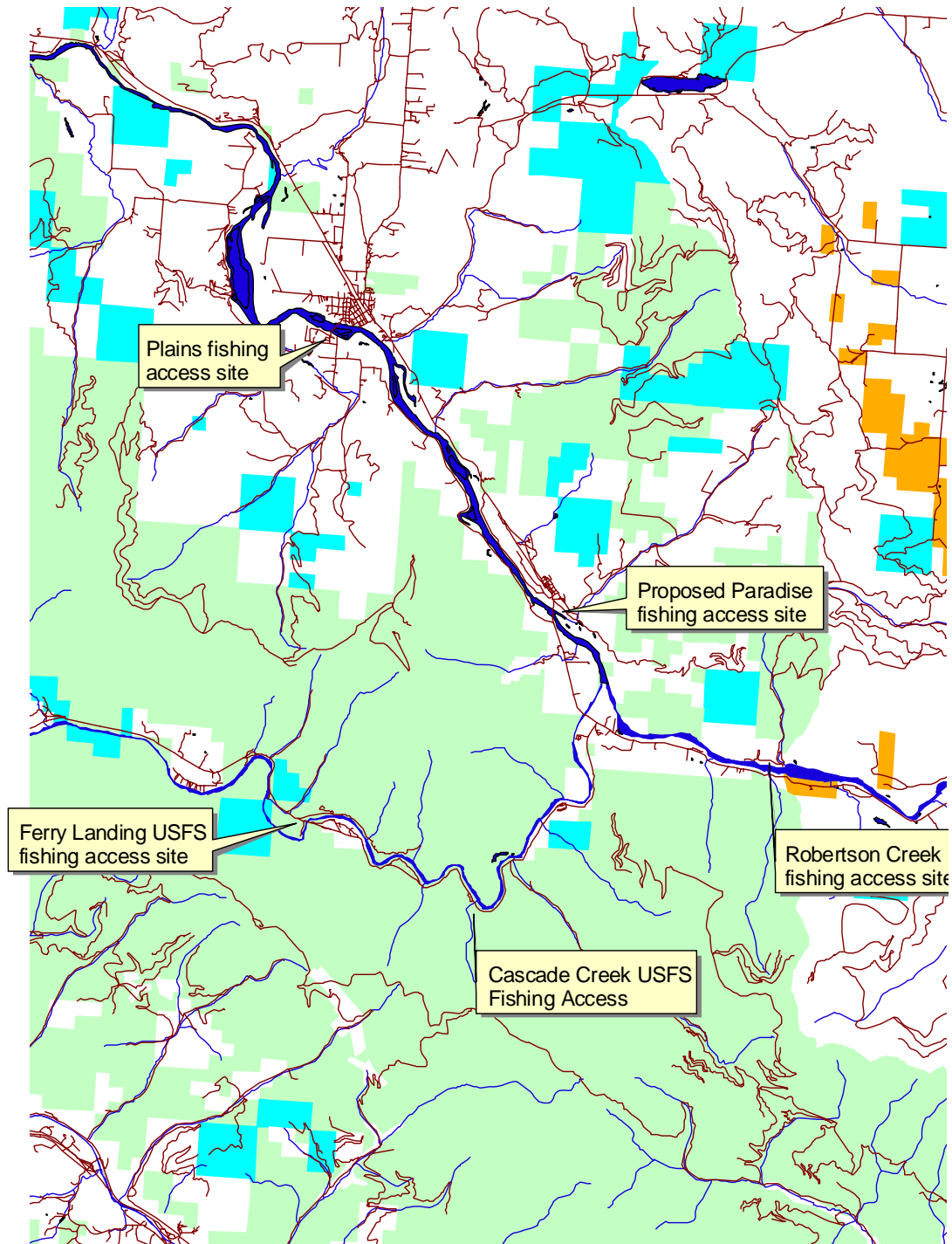
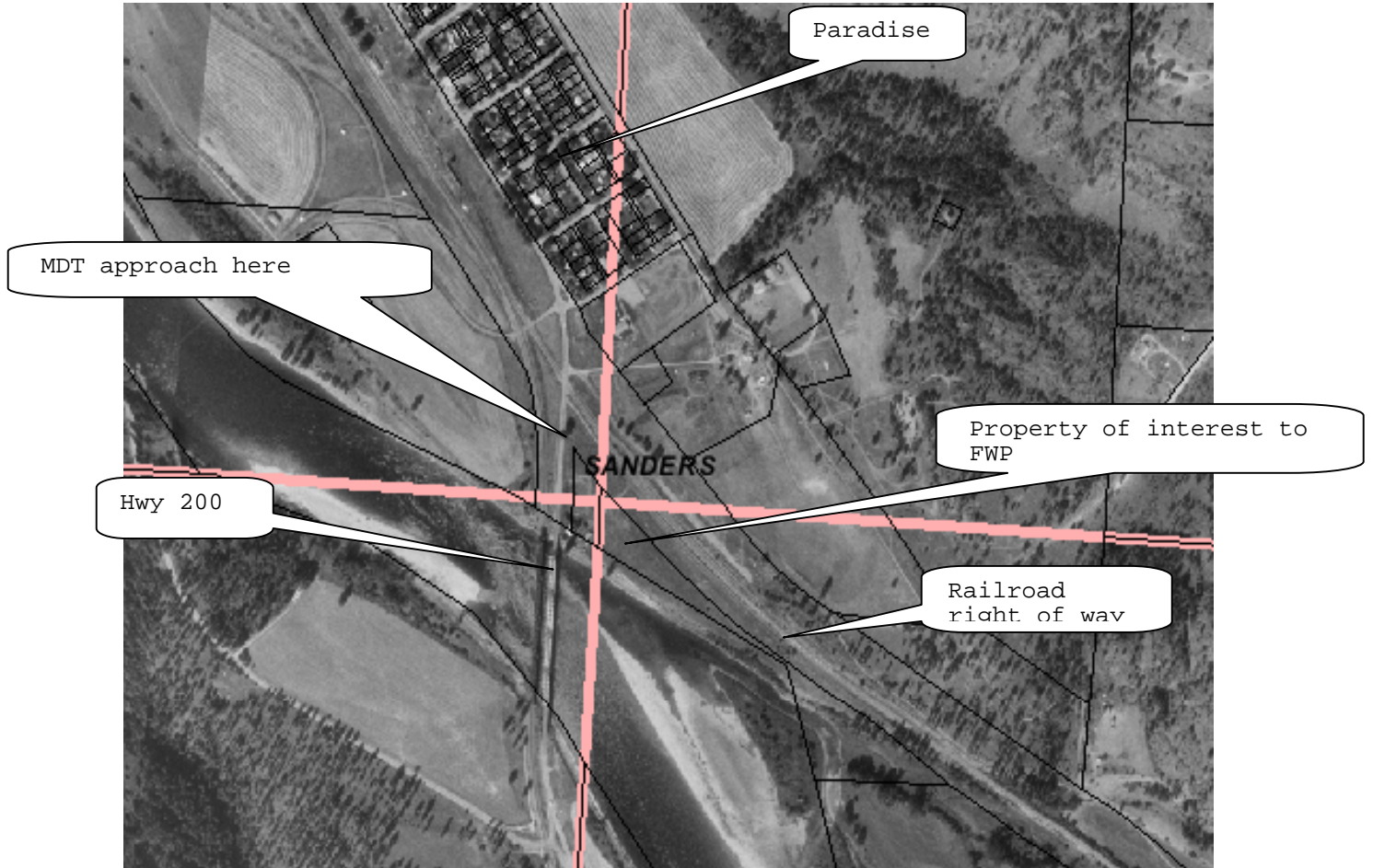


Figure 2. Aerial view of proposed Paradise Fishing Access Acquisition.



**PARCEL A**  
(FWP)  
4.29 ACRES

**PARCEL B**  
(BROCKHOFF)  
10.00 ACRES

**LEASE AREA (FWP)**  
2.31 ACRES

**LOW WATER LINE AS TIED ON AUGUST 6, 2006**

**LEGEND**

- INDICATES MONUMENT FOUND AS NOTED
- INDICATES 1/2" IRON ROD WITH PLASTIC CAP STAMPED "WARREN 27345" FOUND
- ⊕ INDICATES 1/2" X 24" IRON ROD WITH PLASTIC CAP STAMPED "HAGEDORN 18421LS" SET

**TABLE 1: CURVE DATA**

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	0°28'34"	5930.00'	1701.61'	N89°00'43"W	1665.97'
C2	0°23'13"	5930.00'	143.94'	N43°05'49"W	143.93'
C3	1°13'16"	5930.00'	1282.77'	N49°36'44"W	1282.71'
C4	04°40'18"	5930.00'	498.63'	N57°49'57"W	498.69'

**TABLE 2: CHORD DATA**

LINE	BEARING	DISTANCE
L1	N89°00'43"W	122.37'
L2	N89°37'28"E	30.17'
L3	N33°44'49"E	86.47'
L4	N85°51'49"E	54.80'
L5	S38°01'45"E	103.68'
L6	N85°10'01"E	84.83'
L7	N39°03'26"W	87.33'
L8	S68°7'18"W	53.36'
L9	N02°12'50"W	81.57'
L10	N02°40'08"E	38.57'
L11	S63°54'35"E	121.84'
L12	N74°01'18"E	82.91'
L13	N47°29'01"W	74.19'
L14	N68°15'14"W	112.26'
L15	N83°13'06"W	78.50'
L16	N62°52'44"W	106.84'
L17	N66°22'16"W	70.16'
L18	N62°32'56"W	95.11'
L19	N89°10'10"W	74.50'
L20	N00°03'30"E	104.68'
L21	N56°51'14"W	42.15'
L22	N08°15'14"W	70.61'
L23	N37°08'33"E	45.69'
L24	S88°54'33"E	88.17'
L25	S12°05'08"E	18.28'

**SCALE: 1" = 200'**

**FOUND 3 1/4" ALUMINUM STAMPED "WARREN 27345"**

**FOUND 1/2" IRON ROD WITH BROKEN PLASTIC CAP**

**FOUND 1/2" IRON ROD WITH PLASTIC CAP STAMPED "WARREN 27345"**

**FOUND 1/2" X 24" IRON ROD WITH PLASTIC CAP STAMPED "HAGEDORN 18421LS" SET**

**COS 936 TRACT B**



## **PART II. ENVIRONMENTAL REVIEW**

- 1. Description and analysis of reasonable alternatives (including the no-action alternative) to the proposed action, whenever alternatives are reasonably available and prudent to consider, and a comparison of the alternatives with the proposed action/preferred alternative:**

### **Alternative A: No Action**

This alternative would maintain the status quo. Parts of the Clark Fork upstream from Paradise and lower Flathead Rivers would continue to receive lower use due to the lack of suitable take-out spots. This site is about halfway in the 13.3-mile stretch between the USFS Cascade access and the Plains access.

### **Alternative B: Purchase the Paradise Property**

Purchase and leasing the 12.6-acre Paradise Property (proposed FAS) would increase recreational opportunities on the Clark Fork River. During an earlier tour, including officials from Sanders County and USFS as well as local residents, the group expressed the need for an interest in public access to the lower Clark Fork River. The proposed FAS is attractive for public use because of its proximity to Paradise, the on-site wildlife habitat, and the history of public use of the river. This site is about halfway in the 13.3-mile stretch between the USFS Cascade access and the Plains access and would facilitate use of this section of river as well as the overall river corridor.

- 2. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:** Not applicable.

## **PART III. NARRATIVE EVALUATION AND COMMENT**

This analysis did not reveal any significant impacts to the human or physical environment.

The proposed project consists only of transfer of ownership to the state of Montana. No additional construction or improvements of any kind are included in this proposal.

## **PART IV. PUBLIC PARTICIPATION**

- 1. Describe the level of public involvement for this project if any, and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances.**

The public will be notified in the following ways to comment on the EA of the proposed Paradise FAS acquisition:

1. Legal notices will be published in the Missoulian, Sanders County Ledger and Kalispell Daily Interlake as well as news releases.

2. Legal notice and the draft EA will be posted on the MFWP web site under Public Notices <http://fwp.mt.gov/publicnotices>

This level of public involvement is appropriate for a project of this small scale.

**2. Duration of comment period, if any:**

The public comment period will be 21 days, from October 25 through November 14, 2007. Comments may be e-mailed to [jvashro@mt.gov](mailto:jvashro@mt.gov), or written comments may be sent to the following address:

Jim Vashro  
Region 1 Fisheries Manager  
Montana Fish, Wildlife & Parks  
490 N. Meridian Road  
Kalispell, MT 59901

## **PART V. EA PREPARATION**

1. Based on the significance criteria evaluated in this EA, is an EIS required? **NO**  
If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

Based on an evaluation of impacts to the physical and human environment under MEPA, this environmental review revealed no significant negative impacts from the proposed action: therefore, an EIS is not necessary and an environmental assessment is the appropriate level of analysis.

2. Name, title, address, and phone number of the person(s) responsible for preparing the EA:

Jim Vashro  
Region 1 Fisheries Manager  
Montana Fish, Wildlife & Parks  
490 N. Meridian Road  
Kalispell, MT 59901  
(406) 751-4550

## **PART VI. ENVIRONMENTAL REVIEW CHECKLIST**

Evaluation of the impacts of the **Proposed Action** including secondary and cumulative impacts on the Physical and Human Environment.

### **A. PHYSICAL ENVIRONMENT**

1. <b><u>LAND RESOURCES</u></b>  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Soil instability or changes in geologic substructure?		X				1a.
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?		X				
c. Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
f. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (attach additional pages of narrative if needed):**

1a. The proposed action is to acquire the tract by fee title and lease, upon which it would be managed as undeveloped until a site development EA was completed. No impacts to soil stability or geologic substructure are anticipated from this level of action.

2. <b><u>AIR</u></b>  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).)		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a.)		X				
f. Other:		X				

3. <b><u>WATER</u></b>  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		X				3a.
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.)			X			3l.
m. For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)		X				
n. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (attach additional pages of narrative if needed):**

3a. Continuation of historical use at these tracts is not expected to alter water quality.

3l. Both tracts include a portion of the floodplain and will be protected by statewide floodplain regulations under state ownership/easement holding.

4. <b>VEGETATION</b>  Will the proposed action result in?	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?		X				
b. Alteration of a plant community?		X				
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?			X		Yes	4e.
f. For P-R/D-J, will the project affect wetlands, or prime and unique farmland?			X			4f.
g. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Vegetation (attach additional pages of narrative if needed):**

4e. Knapweed occurs on the tracts. Weeds will be treated in accordance with the Region 1 Weed Management Plan, using mechanical, chemical, or biological methods.

4f. This area is not considered unique farmlands. Wetlands occur along the river. The lands will be afforded wetland protection under state ownership and federal laws, and no construction is planned in wetlands.

5. <b>FISH/WILDLIFE</b>  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?		X				
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		X				5g.
h. <u>For P-R/D-J</u> , will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)		X				5h.
i. <u>For P-R/D-J</u> , will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)		X				
j. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Fish and Wildlife (attach additional pages of narrative if needed):**

5 g. Conversion to public ownership would be expected to increase site use. Waterfowl hunting could legally occur.

5h. Bull trout migrate through the area, but are only seasonally present due to warm water temperatures. Bald eagles may move through or feed in the site, but use is limited by the proximity of Paradise and the railroad tracks.

## B. HUMAN ENVIRONMENT

6. <b><u>NOISE/ELECTRICAL EFFECTS</u></b>  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Increases in existing noise levels?		X				
b. Exposure of people to serve or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				
e. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Noise/Electrical Effects (attach additional pages of narrative if needed):**

7. <b><u>LAND USE</u></b>  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				7a.
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Adverse effects on or relocation of residences?		X				
e. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Use (attach additional pages of narrative if needed):**

7a. The site is not currently under management.

<b>8. <u>RISK/HEALTH HAZARDS</u></b>  Will the proposed action result in:	<b>IMPACT</b>				<b>Can Impact Be Mitigated</b>	<b>Comment Index</b>
	<b>Unknown</b>	<b>None</b>	<b>Minor</b>	<b>Potentially Significant</b>		
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?		X				
d. For P-R/D-J, will any chemical toxicants be used? (Also see 8a)			X		yes	8d.
e. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Risk/Health Hazards (attach additional pages of narrative if needed):**

8d. The FWP Region 1 Weed Management Plan calls for an integrated method of managing weeds, including the use of herbicides. The use of weed-controlling chemicals will be in compliance with application guidelines and by people trained in safe handling techniques to limit the possibility of an accidental spill. Weeds could also be controlled using mechanical or biological means in certain areas to reduce the risk of chemical spills.

<b>9. <u>COMMUNITY IMPACT</u></b>  Will the proposed action result in:	<b>IMPACT</b>				<b>Can Impact Be Mitigated</b>	<b>Comment Index</b>
	<b>Unknown</b>	<b>None</b>	<b>Minor</b>	<b>Potentially Significant</b>		
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?			X			9c.
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				
f. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Community Impact (attach additional pages of narrative if needed):**

9c. Increased recreational use could benefit the economy of Paradise by recreationists buying and using goods and services.



10. <b><u>PUBLIC SERVICES/TAXES/UTILITIES</u></b>  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify: <u>public maintenance, solid waste disposal</u>			X		yes	10a.
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				10b.
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased use of any energy source?		X				
e. Define projected revenue sources						10e.
f. Define projected maintenance costs.						10f.
g. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Public Services/Taxes/Utilities (attach additional pages of narrative if needed):**

10a. These tracts will be maintained in a undeveloped nature for the near future, and therefore the need for governmental services will minimally increase. By assuming management responsibilities of these tracts, FWP will see an increase in site patrol for litter and unauthorized activities. A pack-in/pack-out policy is common at FASs across the state, as would be the case at these tracts. This site would be maintained along with several other nearby sites.

10b. FWP makes payments to counties in lieu of taxes for FASs owned in that county; assessments are equal to taxes assessed to private lands (unless the agency owns less than 100 acres in that county, 87-1-603, MCA, under which circumstances lands are exempt).

10e. These tracts will not directly generate any revenue, though they provide access to anglers who purchase fishing licenses. A portion of every fishing license is appropriated to fund FAS acquisitions, operations, and maintenance. Parks and recreation-related funds come from a variety of sources to fund operations and maintenance.

10f. Maintenance costs in the present undeveloped state of these tracts will be minimal and will come from the FWP Region 1 budget.

11. <b><u>AESTHETICS/RECREATION</u></b>	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
Will the proposed action result in:						
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)		X				11c.
d. For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c.)		X				
e. Other:						

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Aesthetics/Recreation (attach additional pages of narrative if needed):**

11c. Acquisition of these tracts by FWP will ensure continued public access. The proposed action will allow for more use of the Clark Fork and Flathead Rivers just upstream and provide a better distribution of recreational use.

12. <b><u>CULTURAL/HISTORICAL RESOURCES</u></b>	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
Will the proposed action result in:						
a. Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?		X				12a.
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)		X				12d.
e. Other:		X				

**Narrative Description and Evaluation of the Cumulative and Secondary Effects on Cultural/Historical Resources (attach additional pages of narrative if needed):**

12a. No site development is planned at this time; therefore, the tracts will not be altered, nor will cultural sites, if any, be altered by a change in ownership or management.

12d. Concurrence from the State Historic Preservation Office has not been requested at this time because transferring private property into state agency ownership affords greater protection to historic and cultural resources than when under private ownership, and no construction is planned at this time.

#### SIGNIFICANCE CRITERIA

13. <b>SUMMARY EVALUATION OF SIGNIFICANCE</b>  Will the proposed action, considered as a whole:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				
f. <u>For P-R/D-J</u> , is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)		X				
g. <u>For P-R/D-J</u> , list any federal or state permits required.		X				

#### Narrative Description and Evaluation of the Cumulative and Secondary Effects on Significance Criteria (attach additional pages of narrative if needed):

Due to the historic heavy recreational use of the river corridor and past expression of public support, this project is expected to have wide public support.

## APPENDIX A

### PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following required stipulation(s):

***(LIST ANY MITIGATION OR STIPULATIONS REQUIRED, OR NOTE "NONE")***

#### **DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?**

YES	NO	
_____	___X___	1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
_____	___X___	2. Does the action result in either a permanent or indefinite physical occupation of private property?
_____	___X___	3. Does the action deprive the owner of all economically viable uses of the property?
_____	___X___	4. Does the action deny a fundamental attribute of ownership?
_____	___X___	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is <b>NO</b> , skip questions 5a and 5b and continue with question 6.]
___X___	_____	5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
___X___	_____	5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
_____	___X___	6. Does the action have a severe impact on the value of the property?

- \_\_\_\_\_   X   7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is **NO**, do not answer questions 7a-7c.]
- \_\_\_\_\_   X   7a. Is the impact of government action direct, peculiar, and significant?
- \_\_\_\_\_   X   7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
- \_\_\_\_\_   X   7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with Section 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.